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12 THE HONORABLE RONALD B. LEIGHTON  
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15 UNITED STATES DISTRICT COURT  
16 WESTERN DISTRICT OF WASHINGTON  
17 AT TACOMA  
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19 F/V PREDATOR, INC.,

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21 Plaintiff,

22 v.

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24 FEDERAL INSURANCE COMPANY  
25 THROUGH CHUBB GROUP, and GREAT  
26 AMERICAN INSURANCE COMPANY OF  
27 NEW YORK,

28  
29 Defendants.  
30  
31  
32

IN ADMIRALTY

NO. 3:08-cv-05080-RBL

STIPULATION AND ORDER RE:  
SEALING FIRST AMENDED  
COMPLAINT AND FILING  
SUBSTITUTED FIRST AMENDED  
COMPLAINT

33 The parties stipulate and request the following relief: (1) that Plaintiff's First Amended  
34 Complaint be sealed; (2) that Plaintiff's Substituted First Amended Complaint, attached at  
35 **Exhibit A**, be filed without seal; and (3) that the filing of Plaintiff's Substituted First Amended  
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37 Complaint relate back to the original June 26, 2009 filing date of Plaintiff's First Amended  
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39 Complaint.  
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STIPULATION AND [PROPOSED] ORDER RE: SEALING  
FIRST AMENDED COMPLAINT AND FILING  
SUBSTITUTED FIRST AMENDED COMPLAINT - 1

**GORDON TILDEN THOMAS & CORDELL LLP**  
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## II. STIPULATION

### A. Applicable Standard for Sealing Court Records.

While there is a strong presumption of public access to the court's files and records, such presumption may be overcome by a "compelling showing that the public's right is outweighed by the interests of the public and the parties in protecting files, records, or documents from public review." Local Fed. R. Civ. P. 5(g)(1). "The court may order the sealing of any files and records on motion of any party, on stipulation and order, or on the court's own motion." Local Fed. R. Civ. P. 5(g)(2). "The law requires, and the motion and the proposed order shall include, a clear statement of the facts justifying a seal and overcoming the strong presumption in favor of public access." *Id.*

In order to limit this right of access, a party seeking to seal records must show "compelling reasons supported by specific factual findings . . . outweigh the general history of access and the public policies favoring disclosure." *Pintos v. Pac. Creditors Ass'n*, 565 F.3d 1106, 1115 (9th Cir. 2009). Under this standard, a court must: (1) weigh relevant facts; (2) base its decision on a compelling reason; and (3) articulate the factual basis for its ruling, without relying on hypothesis or conjecture." *Hagestad v. Tragesser*, 49 F.3d 1430, 1434 (9th Cir. 1995). The court's analysis is reviewed for abuse of discretion. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003).

### B. The Present Circumstances Justify Sealing of Plaintiff's Previously-Filed First Amended Complaint and Substituting for Public-Filing the Attached Proposed First Amended Complaint.

In December 2006, Plaintiff and Defendants entered into a settlement agreement, which contained a confidentiality provision. Defendant Great American Insurance Company of New

1 York ("Great American") contends Plaintiff's First Amended Complaint references confidential  
2 terms of the settlement agreement. Plaintiff contends that any confidentiality of settlement terms  
3 referenced in these paragraphs has been waived by prior public disclosures. The parties believe  
4 that their dispute regarding confidentiality will be resolved through subsequent stipulation or, if  
5 necessary, subsequent motion. In the interim, the parties agree that the First Amended  
6 Complaint should be sealed until the merits of the confidentiality issue can be resolved.  
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12 All parties have stipulated below to the filing, without seal, of a substituted First  
13 Amended Complaint lessening any harm to the public's interest in disclosure. This is a  
14 temporary request to allow the parties time to adequately address the confidentiality issues. The  
15 temporary nature of this request further lessens any harm to the public's interest.  
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20 Accordingly, all parties specifically agree to the following:

- 21 • Plaintiff's First Amended Complaint, filed June 26, 2009 [Dkt. No. 38], be  
22 sealed based on Defendant Great American's concerns related to alleged  
23 confidential disclosures in the First Amended Complaint.  
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25 • Plaintiff's Substituted First Amended Complaint, attached at **Exhibit A**,  
26 be filed without seal, and that such filing relate back to the original June  
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DATED: August 11, 2009

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STIPULATION AND [PROPOSED] ORDER RE: SEALING  
FIRST AMENDED COMPLAINT AND FILING  
SUBSTITUTED FIRST AMENDED COMPLAINT - 3

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## II. ORDER

Based on the foregoing stipulation between all parties, IT IS HEREBY ORDERED that:

1. Plaintiff's First Amended Complaint [Dkt. No. 38], filed June 26, 2009, be sealed;
- and

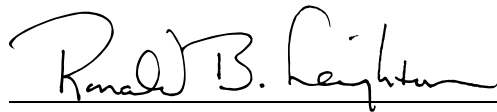
STIPULATION AND [PROPOSED] ORDER RE: SEALING  
FIRST AMENDED COMPLAINT AND FILING  
SUBSTITUTED FIRST AMENDED COMPLAINT - 4

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2. Plaintiff's Substituted First Amended Complaint, attached at **Exhibit A**, be filed without seal, and that such filing relates back to the original June 26, 2009 filing date.

The clerk is hereby directed to file this Order and seal Plaintiff's First Amended Complaint [Dkt. No. 38]. The clerk is further directed to file Plaintiffs' Substituted First Amended Complaint, which is attached at **Exhibit A**, with such filing relating back to June 26, 2009.

DATED this 14<sup>th</sup> day of August, 2009.



RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE

Presented by:

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